

106TH CONGRESS  
2D SESSION

# H. R. 5403

To restore Federal recognition to the Miami Nation of Indiana.

---

## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 5, 2000

Mr. SOUDER introduced the following bill; which was referred to the  
Committee on Resources

---

## A BILL

To restore Federal recognition to the Miami Nation of  
Indiana.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Miami Nation of Indi-  
5       ana Act”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds the following:

8               (1) The Miami Nation of Indians of the State  
9       of Indiana, Inc., an Indian nonprofit 501(c)(3) tax-  
10      exempt corporation, is the modern day governing  
11      body of the Miami Nation of Indiana, also known as

1 the Miami Indians of Indiana or the Indiana Miamis  
2 (collectively referred to herein as the “Miamis”),  
3 which is the descendant of, and the political suc-  
4 cessor to, the signatory of the Treaty of 1854 (10  
5 Stat. 1093).

6 (2) Historically, the Miamis lived in northern  
7 and central Indiana.

8 (3) Between 1795 and 1840, the Miamis en-  
9 tered into a number of treaties with the United  
10 States ceding millions of acres of land to the Federal  
11 Government.

12 (4) In some of those treaties, tracts of land  
13 were reserved for individual tribal members or for  
14 bands of Miamis.

15 (5) The 1840 Treaty required all members of  
16 the Miamis to remove from Indiana to territory west  
17 of the Mississippi River but the Miamis strongly re-  
18 sisted removal to the Kansas Territory.

19 (6) In early 1846, the Commissioner of Indian  
20 Affairs ordered annuity payments withheld until the  
21 Miamis were removed, and thereafter about one-half  
22 of the Miamis were forcibly removed to the Kansas  
23 Territory.

1           (7) After this emigration, some of the Miamis  
2       resided in the Kansas Territory and some of the Mi-  
3       amis resided in Indiana.

4           (8) In 1854, the Federal Government entered  
5       into treaty negotiations with the Miamis who re-  
6       mained in Indiana and thereby recognized them as  
7       a separate Indian tribe—the Indiana Miamis.

8           (9) Congress subsequently enacted legislation  
9       specifically concerning treaties with the Indiana Mi-  
10      amis on a government-to-government basis and ex-  
11      tended the Federal trust relationship to the Indiana  
12      Miamis.

13          (10) In 1897, the Secretary of the Interior,  
14      based on an opinion by then Assistant Attorney  
15      General Willis Van Devanter, withdrew the acknowl-  
16      edgement of the Indiana Miamis as a federally rec-  
17      ognized Indian tribe.

18          (11) Congress has never terminated the Indiana  
19      Miamis or authorized the Secretary of the Interior  
20      to terminate the Indiana Miamis, as a result of  
21      which the 1897 administrative termination by the  
22      Secretary of the Interior was ultra vires and of no  
23      effect.

24          (12) Tribes elsewhere, including the Miami  
25      Tribe of Oklahoma, at Miami, Oklahoma, received

1 services from the Federal Government and were ex-  
2 tended benefits of the Indian Reorganization Act (25  
3 U.S.C. 461 et seq.).

4 (13) In spite of the denial of recognition and  
5 the right to organize under the Indian Reorganiza-  
6 tion Act (25 U.S.C. 461 et seq.), the Indiana Mi-  
7 amis have continued to carry out governmental func-  
8 tions through a tribal council from the treaty times  
9 through the present day.

10 (14) In 1990, the Department of the Interior  
11 admitted that the opinion of Attorney General Van  
12 Devanter was incorrect and that the trust relation-  
13 ship with the Indiana Miamis was wrongfully termi-  
14 nated, but nothing has been done to remedy the  
15 error.

16 (15) For more than 100 years there has been  
17 administrative neglect, violation of treaty and statu-  
18 tory obligations of trusteeship, and misapplication of  
19 Federal law and regulations with regard to the Indi-  
20 ana Miamis.

21 (16) The injustice to the Indiana Miamis de-  
22 scribed in this section should be corrected and their  
23 dignity and self-esteem, individually and collectively,  
24 should be returned by restoration of Federal rec-  
25 ognition to the Indiana Miamis.

1 **SEC. 3. DEFINITIONS.**

2 For purposes of this Act:

3 (1) The term “Tribe” means the Miami Nation  
4 of Indiana.

5 (2) The term “Secretary” means the Secretary  
6 of the Interior.

7 (3) The term “member” means an individual  
8 who meets the membership criteria of the tribe.

9 (4) The term “State” means the State of Indi-  
10 ana.

11 (5) The term “reservation” means those lands  
12 acquired and held in trust by the Secretary for the  
13 benefit of the Tribe.

14 (6) The term “service area” means the State of  
15 Indiana.

16 **SEC. 4. RESTORATION OF FEDERAL RECOGNITION, RIGHTS,**  
17 **AND PRIVILEGES.**

18 (a) **FEDERAL RECOGNITION.**—Federal recognition is  
19 hereby restored to the Tribe. Except as otherwise provided  
20 in this Act, all laws and regulations of general application  
21 to Indians and nations, tribes, or bands of Indians that  
22 are not inconsistent with any specific provision of this Act  
23 shall be applicable to the Tribe and its members.

24 (b) **RESTORATION OF RIGHTS AND PRIVILEGES.**—  
25 Except as provided in subsection (d), all rights and privi-  
26 leges of the Tribe and its members under any Federal

1 treaty, Executive order, agreement, or statute, or under  
2 any other authority which were diminished or lost by vir-  
3 tue of the 1897 decision of the Secretary of the Interior  
4 which terminated Federal acknowledgement are hereby re-  
5 stored.

6 (c) FEDERAL SERVICES AND BENEFITS.—

7 (1) IN GENERAL.—Without regard to the exist-  
8 ence of a reservation, the Tribe and its members  
9 shall be eligible, on and after the date of enactment  
10 of this Act for all Federal services and benefits fur-  
11 nished to federally recognized Indian tribes or their  
12 members. For the purposes of Federal services and  
13 benefits available to members of federally recognized  
14 Indian tribes residing on a reservation, members of  
15 the Tribe residing in the Tribe's service area shall  
16 be deemed to be residing on a reservation.

17 (2) RELATION TO OTHER LAWS.—The eligibility  
18 for or receipt of services and benefits under para-  
19 graph (1) by the Tribe or individual shall not be  
20 considered as income, resources, or otherwise when  
21 determining the eligibility for or computation of any  
22 payment or other benefit to the Tribe, individual, or  
23 household under—

1           (A) any financial aid program of the  
2           United States, including grants and contracts  
3           subject to the Indian Self-Determination Act; or

4           (B) any other benefit to which such tribe,  
5           household, or individual would otherwise be en-  
6           titled under any Federal or federally assisted  
7           program.

8           (d) HUNTING, FISHING, TRAPPING, GATHERING,  
9           AND WATER RIGHTS.—Nothing in this Act shall expand,  
10          reduce, or affect in any manner any hunting, fishing, trap-  
11          ping, gathering, or water rights of the Tribe and its mem-  
12          bers.

13          (e) CERTAIN RIGHTS NOT ALTERED.—Except as  
14          specifically provided in this Act, nothing in this Act shall  
15          alter any property right or obligation, any contractual  
16          right or obligation, or any obligation for taxes levied.

17       **SEC. 5. TRANSFER OF LAND TO BE HELD IN TRUST.**

18          (a) LANDS TO BE TAKEN IN TRUST.—Upon applica-  
19          tion by the Tribe, the Secretary shall accept into trust for  
20          the benefit of the Tribe any real property located in the  
21          State of Indiana, for the benefit of the Tribe after the  
22          property is conveyed or otherwise transferred to the Sec-  
23          retary and if, at the time of such conveyance or transfer,  
24          there are no adverse legal claims to such property, includ-  
25          ing outstanding liens, mortgages, or taxes.

1 (b) FORMER TRUST LANDS OF THE TRIBE.—Subject  
2 to the conditions specified in this section, real property  
3 eligible for trust status under this section shall include any  
4 land within the Tribe’s service area.

5 (c) LANDS TO BE PART OF RESERVATION.—Any  
6 real property taken into trust for the benefit of the Tribe  
7 pursuant to this Act shall be part of the Tribe’s reserva-  
8 tion.

9 (d) GAMING RIGHTS SUSPENDED.—This Act reserves  
10 all rights by the Miami Nation of Indians to engage in  
11 all classes of gaming pursuant to the Indian Gaming Reg-  
12 ulatory Act; however, class III gaming shall only be al-  
13 lowed with the express approval of Congress.

14 (e) LANDS TO BE NONTAXABLE.—Any real property  
15 taken into trust for the benefit of the Tribe pursuant to  
16 this section shall be exempt from all local, State, and Fed-  
17 eral taxation as of the date that such land is transferred  
18 to the Secretary.

19 **SEC. 6. MEMBERSHIP ROLL; CONSTITUTION.**

20 Upon submission by the Tribe, the Secretary shall ac-  
21 cept the current membership roll of the Tribe, its present  
22 membership criteria, and its existing constitution.

○